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ABSTRACT

Providing legal perspectives on equal protection with a focus on access to public education, this curriculum guide assists lawyers making classroom presentations and teachers at all levels. The elementary school curriculum provides students with a working knowledge of the concept of discrimination. It also introduces the differences between permitted and illegal discrimination. In the secondary school curriculum, students analyze a case study on the rights of children of undocumented aliens. Students are asked to express opinions on the right to a free public education for children of illegal aliens. This issue is used to frame student consideration of the Equal Protection clause of the Fourteenth Amendment. In addition to lesson plans, the booklet contains activity guides and sheets, a chronology of California immigration policy history, and instructions for a student forum. (LH)

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LAWYERS IN THE CLASSROOM

Equal Protection Under Law:

Access to Public Education

by Margaret Fisher

ED 394 858

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Special Committee on Youth Education for Citizenship

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When You're a Lawyer in the Classroom . . .

You may find the following tips helpful, especially if you're a novice at giving classroom presentations:

- Work with the teacher before your session. Let her or him know what you plan to do and provide background materials. Ask what the class has been studying, and integrate your session with classroom studies.

- The first few minutes of a presentation may make or break it. Get the students involved immediately—either with a startling statement that grabs their attention or a question that they can't help but want to answer.

- Talk with the students, not at them. A lecture may work for a professor in a law class, but it is not the best way to approach elementary or even secondary students.

- Work the room. Don't stand in one place; move around. Get the students involved. Encourage participation by your own enthusiasm for the topic.

- Be prepared to vary from your lesson plan a bit. When you do generate interest and enthusiasm in the students, their questions and comments may lead you away from your plan. Encourage students' input and allow digression, but look for an opening to get back on track as soon as you can.

- Talk to the students in language they can understand, but don't feel you need to talk down to them. Use some jargon, but explain what each term means. And use examples from students' experiences and analogies they can relate to.

- Know your subject. But if asked a question that you cannot answer, don't try to hide the fact from the students. Say, "That's a good question. I don't know the answer to it."

- Be in control of the classroom. Some students may try to test you. If that happens, the teacher may intervene; then again, he or she may not. Try to handle the situation yourself. Let the students know you are in control of the classroom for the time you are there.

- Don't get involved in discussion of a school controversy, especially one that pits students against the administration. Stress responsibility as well as rights when talking about the law.

- Watch the clock. No matter how interesting you may be, most students' attention will still last no longer than the normal classroom period.

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How to Use This Booklet

This booklet contains lesson plans and ancillary materials on the topic of Equal Protection Under Law: Access to Public Education for three different levels of students: elementary grades 4–6 (Level A), middle school grades 6–8 (Level B), and high school grades 9–12 (Level C). The grade level is identified near the page number. In addition, each grade level contains pages for the lawyer (marked by the scales of justice), the teacher (an apple), and the students (a pencil). At the beginning of each level, you'll find a chart of the materials it comprises, along with photocopying instructions. You might also want to make overhead transparencies of the main activity pages (marked by all three icons).

SPECIAL COMMITTEE ON
Youth Education for Citizenship
AMERICAN BAR ASSOCIATION

Equal Protection Under Law:
Access to Public Education

Level A (Grades 4-6)

This level contains the following materials:

Lawyer's Pages

- ❑ **Lesson Plan** (page A-4)
- ❑ **Background on the Law** (page A-5)
- ❑ **Not Including Everyone!** (pages A-6–7)

Teacher's Pages

Make one copy of each page marked with the teacher's icon and send to the teacher in a Teacher's Packet one week before the class session.

- ❑ **Background on the Law** (page A-5)
- ❑ **Not Including Everyone!** (pages A-6–7)
- ❑ **Activity Guide** (page A-8)
  Overview of the Lesson
  Activity Sheet/Answer Keys
  Extension Activities (Opinion Poll, Drafting Legislation)

Student Pages

Make copies of the pages marked with the student icon for each student in class and distribute as part of a Student Packet.

- ❑ **Not Including Everyone!** (pages A-6–7)
- ❑ **Activity Sheet** (page A-9)

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Lesson Plan

Objectives

During your session, students will—

- ✓ identify the experience of discrimination
- ✓ distinguish between permitted and illegal discrimination
- ✓ argue for and against providing a free public education to children of illegal aliens

Vocabulary

As these terms come up in discussion, list them on the board and elicit definitions from the students. These terms appear on the Activity Sheet in the Student Packet, which students may complete after your visit.

color	home
law	private
right	sex
family	housing
origin	race
school	stores

Procedure

1. Begin class by introducing yourself and telling the students a little about yourself. Say you're glad to have been included in the class's plans for the day. Then ask, "What does it mean to include someone?" Wait for responses; ask students to give examples. Then ask, "What does it mean to exclude someone?" Tell students that today you are going to talk about including and excluding people. Ask whether anyone knows the legal term for excluding people. Write the word *discrimination* on the board.

2. Distribute the Student Packets and direct students to the handout "Not Including Everyone!" Ask a volunteer to read each situation aloud.

3. Invite each student to write his or her answers on the handout. Explain that you are asking students to give their opinions about these situations and that you are not trying to make them guess what the law requires. Allow them fifteen minutes to answer the questions. During this time, draw the chart below on the board.

4. After students have answered the questions, debrief by asking how many students thought in the first situation that it was right to let boys in the neighborhood start a club and keep girls out. Explore students' feelings about being excluded and doing the excluding. Ask for a show of hands on whether the government should force the boys' club to include the girls. Encourage students to give their reasons. Tally the results on the chart.

5. Do the same with each of the other four situations.

6. Make the following points after students have given their answers and discussed their reasons. Reassure students that their opinions are valid.

The law under the Constitution's guarantee of the right of privacy and the right to equal protection, and various civil rights laws, provides that—

a. People in their highly personal relationships have the right to associate with people that they like without interference from the government. Therefore, the law would not force a neighborhood group of boys to include the girls in their club. However, if a club had government involvement (such as getting money from the government), the government might force the club to admit girls.

b. Also under this principle, the law would not force Sandy's parents to invite people of a different skin color into their home.

c. When people are involved in offering goods and services to the public, such as **shopping, housing, education,** and **jobs** [list these on the board], they are not allowed to exclude people for reasons such as **race, color, religion, national origin, sex, disability,** or **age** [list these on the board]. Therefore, the storeowner may not exclude people of Vietnamese ancestry from his store.

d. People may be excluded for differences that are not protected by law, such as job or profession. Courts have ruled that landlords may discriminate against renting to lawyers.

e. In the Supreme Court case *Plyler* v. *Doe*, 457 U.S. 202 (1982), the Court ruled that children of people who came to this country illegally cannot be denied the same free public education available to other children. The Court expressed that it was especially concerned that these children would be forever "second-class citizens" without an education. The vote was 5–4.

Note: California passed an initiative in November 1994 that specifically bans free public education to children of illegal aliens. Legal challenges may bring this issue back to the Supreme Court for another look and a possibly different decision. Backers of the initiative believe that the Court would rule differently today. While the Court traditionally follows its prior decisions, the members of the Court have changed since 1982. The argument could be made that circumstances have also changed, in that economic and immigration conditions are different today.

The following "Background on the Law" may help you answer questions students have about constitutional protections.

7. Ask students to name one thing that they learned in today's class.

	Right	Wrong	Government Force	No Government Force
1.				
2.				
3.				
4.				
5.				

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Background on the Law

THE EQUAL PROTECTION CLAUSE OF THE CONSTITUTION

The Fourteenth Amendment provides that no state shall deny to any person equal protection under law. To determine whether a law or government practice violates this equal protection clause, courts use three different tests, depending upon the nature of the group or right involved:

Strict Scrutiny Test: Applies to laws and practices that discriminate on the basis of race, national origin, alien status, or some fundamental right such as freedom of speech or religion. As the test suggests, the government's act is scrutinized closely. The government must show that it has a compelling interest, in other words, an extremely important reason for treating people differently on one of these bases. It must also show that this governmental action is the least restrictive means to achieving its purpose and is narrowly tailored to advance this compelling interest.

Substantial Relationship Test: This intermediate scrutiny applies to government acts that classify on the basis of sex. In these cases, the government must show an important reason to justify its classification. There must be a close relationship between the government's act and its purpose.

Rational Relationship Test: Otherwise and in most cases, government actions that classify one group differently from another must pass this minimal scrutiny. There must be a logical relationship between the classification and the law's or practice's purpose. The government's interest in discriminating must be a legitimate one.

Selected Major Federal Civil Rights Laws

The Civil Rights Act of 1964, amended in 1972, prohibits discrimination in public accommodations based on race, color, religion, or national origin. It prohibits discrimination based on race, color, sex, religion, or national origin (1) in employment by businesses with more than 15 employees; (2) by state and local governments and public educational institutions; and (3) in any program or activity receiving any federal funds.

The Age Discrimination in Employment Act of 1967, amended in 1978, prohibits arbitrary age discrimination of persons aged 40 and older by employers of 20 or more persons.

The Americans with Disabilities Act of 1990 prohibits discrimination against individuals with disabilities in employment, public services, public accommodations, telecommunications, and other activities.

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Not Including Everyone!

Read each of these situations. Think about it carefully. Then answer the questions that follow the situation on this paper.

1. Some boys in your neighborhood decide to start their own club, but they won't let girls join the club. Is this right? How would you feel if you wanted to join but could not? How would you feel if it was your club and someone forced you to include someone you didn't want to? Should the government force the boys to include the girls? Give your reasons.

2. Sandy's parents don't like people who are a different color from them. They won't even allow any people with different skin color into their house. Is this right? Should the government force Sandy's parents to invite people of a different skin color to their house? Give your reasons.

3. Danny's parents don't like lawyers. His parents own an apartment house, but they won't rent to anyone who is a lawyer. Is this right? Should the government force Danny's parents to rent to lawyers? Give your reasons.

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4. A storeowner who was a prisoner of war during the Vietnam War won't allow people of Vietnamese ancestry to shop in his store. Is this right? How would you feel if you were of Vietnamese ancestry and could not shop in the store? How would you feel if you were the storeowner and the government forced you to allow people of Vietnamese ancestry to shop in your store? Should the government force this storeowner to allow people of Vietnamese ancestry to shop in the store? Give your reasons.

5. The public schools in your area won't let certain children go to school for free because the children are not legally in the country. These children are born to people who came into the United States without getting permission from the U.S. government. Is it right to keep these children out of school? How would you feel if you lived in the United States but couldn't go to school because your parents had come into the country without permission? Should the government force the schools to educate these children? Give your reasons.

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OVERVIEW OF THE LESSON

Objectives

During the lawyer's class session, students will—

- ✓ identify the experience of discrimination
- ✓ distinguish between permitted and illegal discrimination
- ✓ argue for and against providing a free public education to children of illegal aliens

Lesson Summary

The class session conducted by the lawyer focuses on a series of situations, or hypotheticals, that require your students to express their opinions about including and excluding people. The students answer a series of questions regarding each situation. Following this work, the lawyer debriefs the students' answers. Their input will be incorporated into the lawyer's presentation of basic legal principles arising from constitutional and statutory law on discrimination.

Following the lawyer's visit, you might have students take an opinion poll. You might also consider having students do research and draft legislation in a certain area of the law. These extension activities are explained more fully below.

ACTIVITY SHEET/ANSWER KEYS

In each Student Packet is an Activity Sheet. Students may use the ***Scrambled Words*** and ***Word Search*** exercises to strengthen vocabulary related to equal protection under law after the lawyer's visit. Note that the scrambled words are the same words as in the word search.

Scrambled Words

1. LAW
2. RACE
3. HOME
4. PRIVATE
5. SEX
6. RIGHT
7. COLOR
8. FAMILY
9. SCHOOL
10. STORES
11. ORIGIN
12. HOUSING

Word Search

[(X (Col), Y (Row)) Direction - Word]:
(02,05) S - COLOR
(02,06) E - ORIGIN
(02,07) E - LAW
(03,09) S - PRIVATE
(04,09) S - SEX
(06,04) E - RIGHT
(09,04) N - HOME
(09,12) N - FAMILY
(11,06) S - HOUSING
(13,03) W - RACE
(13,06) W - SCHOOL
(13,06) N - STORES

EXTENSION ACTIVITIES

Opinion Poll: Have students conduct an opinion poll with at least three other students from other classes or adults from their family or neighborhood about the issues in the handout "Not Including Everyone!"

Drafting Legislation: Poll students to identify one area of the law that they studied with which they disagree or for which they feel a law is needed. Have groups of students research the issue in their school or local library in greater detail. They may also interview relevant local officials. Each group may then draft a bill, or proposed law, to address the need.

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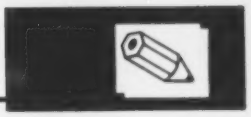
Activity Sheet



Scrambled Words

Unscramble these words. Use the definitions provided to help you.

___ ___ ___ **1.** ALW is a rule of the government.

___ ___ ___ ___ **2.** CARE is a group with similar physical characteristics that a person belongs to.

___ ___ ___ ___ **3.** EOMH is where a person lives and has the most privacy from the government.

___ ___ ___ ___ ___ ___ ___ **4.** EPITVAR means not public.

___ ___ ___ **5.** EXS is whether a person is male or female.

___ ___ ___ ___ ___ **6.** GTRIH is something one is entitled to, like free speech.

___ ___ ___ ___ ___ **7.** LCOOR means the shade of one's skin.

___ ___ ___ ___ ___ ___ **8.** MLAIFY is the basic group in society—often a mother, father, and children.

___ ___ ___ ___ ___ ___ **9.** OLSCHO is the place students get an education.

___ ___ ___ ___ ___ ___ **10.** ORSEST are where people shop.

___ ___ ___ ___ ___ ___ **11.** RGOIIN means the source, where someone comes from.

___ ___ ___ ___ ___ ___ ___ **12.** SONIHGU includes houses, apartments, trailers, and other places where people live.

Word Search

Find the following terms in the word search puzzle. Words may be spelled up, down, forward, or backward.

COLOR	FAMILY	HOME	HOUSING
LAW	ORIGIN	PRIVATE	RACE
RIGHT	SCHOOL	SEX	STORES

Q	L	S	R	D	Z	T	E	E	N	U	K	S	K	V
S	X	L	G	Q	E	J	V	M	T	G	C	E	W	M
Q	B	R	N	B	O	D	N	O	E	C	A	R	N	W
T	P	L	F	S	R	I	G	H	T	V	R	O	M	M
M	C	F	D	M	J	R	Q	O	J	F	K	T	X	A
Z	O	R	I	G	I	N	L	O	O	H	C	S	D	G
N	L	A	W	G	G	G	D	Y	O	O	D	C	Z	Q
B	O	H	D	J	U	X	I	L	C	U	F	O	V	X
H	R	P	S	X	X	R	O	I	D	S	L	A	Z	T
N	Q	R	E	E	D	R	K	M	F	I	S	B	K	D
N	J	I	X	N	W	Y	Y	A	S	N	A	V	D	L
Z	S	V	H	Q	L	Y	T	F	R	G	W	W	X	Y
X	Z	A	H	E	G	D	G	D	F	L	E	J	H	R
C	W	T	X	X	Y	I	A	Q	X	I	C	J	Y	U
D	R	E	D	R	V	G	U	J	D	T	K	L	G	Q

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Equal Protection Under Law:
Access to Public Education

Level B (Grades 6-8)

This level contains the following materials:

Lawyer's Pages

- ❑ **Lesson Plan** (page B-11)
- ❑ **Background on the Law** (page B-12)
- ❑ **Right to a Free Public Education? You Be the Judge!** (page B-13)
- ❑ **Opinion A** (page B-14)
- ❑ **Opinion B** (page B-15)

Teacher's Pages

Make one copy of each page marked with the teacher's icon and send to the teacher in a Teacher's Packet one week before the class session.

- ❑ **Background on the Law** (page B-12)
- ❑ **Right to a Free Public Education? You Be the Judge!** (page B-13)
- ❑ **Opinion A** (page B-14)
- ❑ **Opinion B** (page B-15)
- ❑ **Activity Guide** (pages B-16–18)
  Overview of the Lesson
  Pre-Visit Exploratory Activity
  Activity Sheet/Answer Keys
  Extension Activities (Appellate Opinion, Mock Legislative Hearing)

Student Pages

Make copies of the pages marked with the student icon for each student in class and distribute as part of a Student Packet.

- ❑ **Right to a Free Public Education? You Be the Judge!** (page B-13)
- ❑ **Opinion A** (page B-14)
- ❑ **Opinion B** (page B-15)
- ❑ **Activity Sheet** (page B-19)

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Lesson Plan

Objectives

During your session, students will—

- ✓ analyze a case study on the rights of children of undocumented aliens
- ✓ identify the equal protection clause of the Fourteenth Amendment

Note: Before your session, the students should have become familiar with the terms *immigrant*, *citizen*, and *alien*. To this end, photocopy and send the Teacher's Packet to the classroom teacher at least one week before your session is scheduled.

Vocabulary

As these terms come up in discussion, list them on the board and elicit definitions from the students. These terms appear on the Activity Sheet in the Student Packet, which students may complete after your visit.

violation	education
alien	justice
amendment	prejudice
children	immigration
citizen	Constitution
deport	

Procedure

1. Begin the session by telling the students that, if they are like the majority of Americans, they are descended from aliens. Ask what an alien is. If necessary, guide students to the understanding that an alien is a person who is in the United States but is not a citizen of the country. Remind them that at some point in the past, most students' ancestors came from other countries to the United States and were therefore aliens. If there is a globe or world map in the classroom, point to your family's country or countries of origin. Ask if one or two volunteers can point out the countries from which their ancestors came.

2. Tell students they are going to study a U.S. Supreme Court case that was decided in 1982. (Remember that, depending on the grade you are teaching, this decision was most likely handed down before the students were born.) The case is about education for the children of undocumented, or "illegal," aliens. Ask whether anyone has heard about this issue in the news.

3. Ask students what an illegal alien is. Guide them to understand that an illegal alien is a person who has come into this country without the permission of the government. Illegal aliens may have entered the country without "checking in" at the border, or they may have entered legally but stayed longer than they were supposed to. Undocumented aliens may be deported, or made to leave the country, unless they can prove that they would be subject to persecution if returned to their own country.

4. Distribute the Student Packets and direct students to the handout "Right to a Free Public Education? You Be the Judge!" Ask a volunteer to read it aloud. Check for understanding by asking the following questions:

Why did Texas pass this law?
Why didn't the children of illegal aliens go to school after the law was passed?
Why did the parents file a lawsuit?
What did they want? Why?

5. Direct students to the handouts "Opinion A" and "Opinion B" and have volunteers read them aloud.

6. Ask students: What is the issue in this case? Put another way, what must the Court decide? (The issue is whether the Texas law excluding children of undocumented aliens from free public schools is constitutional. Or does it violate the equal protection clause of the Fourteenth Amendment?) (Following this lesson plan is a brief history of major U.S. Supreme Court cases addressing the issue of discrimination against aliens. There is no need to distribute it to the students, but it may help you answer some of their questions. Make a copy for the teacher as well.)

7. Have students decide whether they agree with Opinion A or Opinion B as well as why they agree with that opinion. Tell students that they should not try to guess what the U.S. Supreme Court decided with this case, but instead to select the opinion with which they personally agree.

8. Poll students as to which court opinion they agree with by a show of hands.

9. Divide the class into groups of no more than five. Try to construct the groups with students of like opinions. Each group should assign a recorder to write down the group's ideas and a spokesperson to report the arguments to the class.

10. Ask students to work within their group to identify each argument in their opinion. Tell students that they are free to add arguments that support their case even if those arguments are not contained in the opinion.

11. Make sure the students understand their task. Tell students that they have ten minutes to list their arguments. While the groups are working, circulate and observe them to determine that they are on task. Don't take over any group, but do give any needed instruction or prompt discussion with questions.

12. Begin discussion of the case by asking one spokesperson from one group that is supporting Opinion A to give one of its arguments. Next ask a spokesperson supporting Opinion B to respond to the argument given for Opinion A. As the arguments are given, write them on the board under the appropriate heading Opinion A or Opinion B.

13. Continue the discussion, ensuring that students from each group have a chance to contribute. Invite the spokespersons to provide additional input.

14. When the arguments have been exhausted, congratulate the students on their creativity and powers of thinking and respond to the arguments that they made.

15. Ask the class to identify which opinion was that of the U.S. Supreme Court. Tell students that the Supreme Court decided this case in 1982 and held that the Texas law was unconstitutional. The majority opinion is reflected in Opinion B. The Court expressed that it was especially concerned that these children would be forever "second-class citizens" without an education. The vote was 5–4.

Note: The California initiative passed in 1994 is in direct contradiction to this decision of the Supreme Court. Backers of the initiative are betting that the Court would rule differently today. While the Court traditionally follows its own precedent, the members of the Court have changed since 1982. The argument could be made that circumstances have also changed, in that economic and immigration conditions are different today.

16. Allow time for a question-and-answer wrap-up.

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HISTORY OF MAJOR U.S. SUPREME COURT CASES ADDRESSING DISCRIMINATION AGAINST ALIENS

You're not expected to present this information to the students, but it could help you answer some questions they might have, such as, "Do people who are not citizens have rights under the Constitution?"

The U.S. Supreme Court first held that aliens, or noncitizens, were entitled to equal protection under the Fourteenth Amendment in 1885. In *Wick Yo* v. *Hopkins*, 118 U.S. 356 (1885), a San Francisco laundry licensing ordinance was used to discriminate by denying licenses to Chinese who owned laundries, while granting licenses to white laundry owners. The Supreme Court held that the law was being applied in a way that discriminated against the Chinese, and thus violated the equal protection clause of the Fourteenth Amendment.

Still, laws continued to be passed by the states that discriminated against aliens, particularly in the area of employment, and many of these laws were upheld by the courts, under the rationale that a state has the authority to limit the use of its public resources and funds to its citizens. Examples of some of the laws upheld are an Ohio law prohibiting aliens from operating pool halls, a Pennsylvania law prohibiting aliens from being licensed as public accountants, a New York law denying aliens the right to be awarded public works contracts, and a Maryland law prohibiting aliens from selling liquor. Aliens have also been denied the right to cut hair, sell soft drinks, handle animals or corpses, or peddle goods—because of "a tendency to cheat customers."

Finally, in the 1940s, the U.S. Supreme Court began to strike down some of these laws, beginning with a California law that prohibited aliens from obtaining a fishing license. It was not until 1971, however, that the Supreme Court severely limited the right of states to treat aliens differently than citizens.

In *Graham* v. *Richardson*, 403 U.S. 369 (1971), the U.S. Supreme Court held that aliens could not be denied welfare benefits simply on the basis that they were aliens. In *Graham*, for the first time, the Court classified aliens as a "suspect class." This classification means that laws discriminating against aliens must be examined under the "strict scrutiny" test, which is the strictest test that can be applied under the Fourteenth Amendment equal protection analysis. Under the strict scrutiny test, a law discriminating against aliens is unconstitutional *unless* the state can show that it serves a compelling, or very important, purpose or need. It must also show that this governmental action is the least restrictive means to achieving its purpose and is narrowly tailored to advance this compelling interest.

Other "suspect classes" are race and national origin. (The strict scrutiny test is also used if a law interferes with fundamental rights in the Constitution, such as freedom of speech or religion.)

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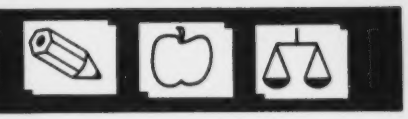
Right to a Free Public Education?



YOU BE THE JUDGE!

***Plyler* v. *Doe*, 457 U.S. 202 (1982)**

The Law and History of the Case

Mexican workers have been coming to Texas in greater and greater numbers looking for a better life and better jobs. Many of these workers enter the country without the permission of the U.S. government. They are called undocumented or illegal aliens. Most of these workers are single men around thirty years old who come, find work, and send a good part of the money they earn back to their families in Mexico. Some entire Mexican families have also made the move to Texas. These families live in the United States permanently, even though they do not have the government's permission to do so.

The families in this Supreme Court case have been in the United States from three to thirteen years. They are all very poor. Each family includes children born in Mexico and at least one child born in the United States. The children born in the United States are legally citizens, according to the Constitution.

The state of Texas passed a law that required children of illegal aliens to pay for public school or else not be allowed to go to school. Tyler School District in Texas required that children of illegal aliens pay $1,000 per year for each child to attend public school. The school district would not allow about fifty children of illegal aliens to attend public school because they were too poor to pay the tuition.

Several families of illegal aliens sued the Tyler School District. They claimed that the Texas law that denied a free public education to their children violates the Fourteenth Amendment of the U.S. Constitution. The Fourteenth Amendment prevents states from denying "equal protection" of the laws to "any person" within the state.

Facts

- The increase in illegal immigrants from Mexico has created problems for the school district. This is partly because the school district must pay for the special needs of those students, such as classes in how to speak English.
- The large number of children of illegal immigrants costs the school district a lot of money for other things, such as lunches.
- Illegal aliens cannot get other government benefits, such as food stamps and welfare.
- Many undocumented alien children continue to live in the U.S. for years. Some may become citizens by marrying U.S. citizens.
- Without an education, the children are likely to remain poor. These children are already disadvantaged because of poverty, their lack of English, and prejudice.
- A large number of illegal aliens live in Texas. Many Texans tolerate them and give them jobs. However, some people often abuse them or take advantage of them.
- Illegal aliens do not use many public services because they are afraid of being forced to leave the country. They work and pay some taxes.

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The law that does not allow children of illegal aliens to attend public schools for free is constitutional. The law does not prevent the children from attending school, only from attending school for free.

A state should not have to pay to educate children who are illegally in the state. States do not have the power to enforce immigration laws and control the borders with other countries. Nor can they deport aliens. Those powers belong to the federal government only. Yet the government does not do much to keep illegal aliens out. If Congress will not pass laws or spend the money to properly patrol our borders, states should have the right to pass laws like this one. In this way, they can protect citizens' tax money.

Illegal aliens are not entitled to other benefits the state offers, such as welfare and food stamps. Free public education is not a fundamental right. Since the aliens have no right to be here in the first place, the state and school district do not have to provide a free education for these children.

Providing a free education to children of illegal aliens will only encourage more immigrants to come here illegally. This will be a burden on the economy of the state. The school district must protect its financial security.

The children of illegal aliens put a great burden on the school system because of their special needs.

Since many of these children will not remain in the United States, they will not have the chance to put their education to use here.

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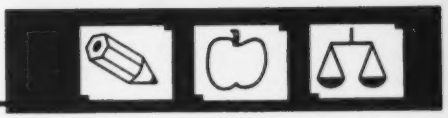
Opinion B



The law that does not allow children of illegal aliens to attend public schools for free is unconstitutional. The law violates the Fourteenth Amendment of the U.S. Constitution because it unfairly discriminates against these children.

Public education is necessary to keep our democratic system of government strong. Education also gives students the basic skills to make a living in our society. A child who cannot read and write will be handicapped every day of his or her life. No child can be expected to succeed in life without an education. Therefore, education must be provided equally.

The children of illegal aliens are not responsible for being here. It is unfair to use a parent's illegal act as a reason to punish a child by not allowing him or her to go to school. No child is responsible for its birth. To punish a child for something that he or she has no control over is unjust. Nor is it going to keep the parents from illegally entering the United States.

Most illegal aliens enter this country to look for work, not to get a free education for their children. This law will have no impact on the amount of illegal immigration. It will only punish innocent children.

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OVERVIEW OF THE LESSON

Objectives

During the lawyer's class session, students will—

- ✓ analyze a case study on the rights of children of undocumented aliens
- ✓ identify the equal protection clause of the Fourteenth Amendment

Lesson Summary

The class session conducted by the lawyer focuses on a case study of a 1982 U.S. Supreme Court case. The Court ruled in a 5 to 4 decision that children of undocumented, or "illegal," aliens have a constitutional right to a free public education under the equal protection clause of the Fourteenth Amendment. Students will analyze the case by studying opposing opinions.

You can best prepare your students for the lawyer's class session by helping them define the terms *immigrant, citizen,* and *alien.* The Pre-Visit Exploratory Activity outlined below will help you accomplish this.

Following the lawyer's class session, you might have students write and turn in appellate opinions on the 1982 case. An appellate opinion is one written by a higher (appeals) court. In this instance, students' appellate opinions will reflect their personal views of the case.

Additionally, consider holding a mock legislative hearing on California's initiative to deny free public education to children of undocumented immigrants.

These extension activities are explained more fully below.

PRE-VISIT EXPLORATORY ACTIVITY

Prior to the lawyer's visit—

1. Ask students what we mean by "immigration." (Immigration is the act of coming to a country of which one is not a native, with the intent of settling there.) Draw from students their prior knowledge and experiences with immigration. Ask whether any students immigrated themselves. Inquire about attitudes students have noticed about immigration by asking questions such as: "How do you think Americans feel about immigrants?"

2. As a class, brainstorm reasons people immigrate (economic opportunity, reunion with family members, religious freedom, refuge from persecution, and so on).

3. Ask students what it means to be a citizen of the United States. List their responses on the board.

4. Ask students what they think of when they hear the word *alien.* Guide them to understand that an alien is a person who is in the United States but is not a citizen of the country. Immigrants who have not attained citizenship status are called aliens. Point out the meanings (which students themselves probably offered) associated with the word *alien* (from outer space, dangerous). Discuss whether these meanings are sometimes reflected in people's treatment of aliens.

5. Explain that some aliens are in this country for a limited time. For example, tourists and foreign students are such aliens. Other aliens have come here to live. In other words, they have immigrated here. After living here for five years, they may become citizens.

ACTIVITY SHEET/ANSWER KEYS

In the Student Packet is an activity that asks students to match key vocabulary terms with their definitions and then find the terms in a word search puzzle. Students may use the exercises to strengthen vocabulary after the lawyer's visit.

Matching

a. 10
b. 9
c. 4
d. 11
e. 5
f. 1
g. 7
h. 3
i. 8
j. 2
k. 6

Word Search

[(X (Col), Y (Row)) Direction - Word]:

(04,04) S - VIOLATION
(05,09) S - ALIEN
(05,09) N - AMENDMENT
(06,09) N - CHILDREN
(06,09) S - CITIZEN
(08,09) E - DEPORT
(09,09) W - EDUCATION
(09,15) N - JUSTICE
(10,09) N - PREJUDICE
(14,11) N - IMMIGRATION
(15,12) N - CONSTITUTION

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EXTENSION ACTIVITIES

Appellate Opinion: Ask each student to write an appellate opinion based on how he or she would personally decide the case. Tell students to support their decisions with both legal arguments and facts (those listed on the "Right to a Free Public Education?" handout as well as others they may research in newspapers and magazines). Ask them to discuss any policy implications of their decisions.

Mock Legislative Hearing: In 1994 voters in the state of California passed an initiative refusing certain public services to illegal aliens. You can use a mock legislative hearing format to allow your students to discuss this issue.

1. Read the following suggested law:

> **Save Our State.** Illegal aliens will not be able to receive government-supported nonemergency medical care or free public education in this state. Teachers and medical care workers must report any "apparent illegal immigrants" they deal with.

2. Ask for a show of hands for who would support such a law and who would oppose it.

3. Divide the class into three groups: legislators, supporters, and opponents. Subdivide the groups so that no more than five students form a group.

4. Ask the groups to prepare to participate in a mock legislative hearing about this proposed law. Give students a copy of the handout that follows. The supporters and opponents should be allowed twenty minutes to prepare a five-minute presentation to the legislators (each small group to make one presentation). The legislators should spend their twenty minutes preparing questions for the presenters. One student on the legislative panel should serve as chair of the legislative committee.

5. Following each five-minute presentation, the legislators should ask questions. At the end of all the presentations, the legislative committee members should vote the proposed bill in or out.

6. Take a final vote of all class members.

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Legislative Hearing

Assume that the bill below has been introduced into the state legislature. A state legislative committee is holding hearings on the proposed law. The lawmakers want to get input from supporters and opponents. Supporters and opponents will prepare arguments for their side and make presentations to the committee. The members of the legislative committee will listen to the presentations, ask questions, and then vote whether or not to pass the law.

> **Save Our State.** Illegal aliens will not be able to receive government-supported nonemergency medical care or free public education in this state. Teachers and medical care workers must report any "apparent illegal immigrants" they deal with.

Here are two sample presentations:

Robert Sampson, Save Our State Coordinator: "I don't have anything personal against immigrants. It's just that this state is going bankrupt. We can't take in all the illegals in the world. How many can we educate, medicate, and support? Just because they are here does not mean they have a right to stay here and a right to our tax dollars. And many of those who work and earn money here just send it out of the country to their families back home. The proposed law allows for emergency care, so if someone has an emergency, they can still get medical attention. We all carry some form of identification anyway, so having to show an ID to get medical care and other tax-supported services is no big change."

Rosa Vargas, Mexican American Legal Defense Fund: "People do not come to this country for free medical care. They come for jobs, and they contribute a great deal to the economy. If we pass this law, people will live in the shadows of society, afraid to seek necessary medical care. Disease and even epidemics could result, affecting everyone. Also, if doctors and teachers are asked to report illegal aliens, it will result in racial discrimination. Anyone who looks like a Hispanic will be targeted and asked to prove they are a citizen. Soon we'll all be asked to carry ID cards."

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Activity Sheet

Matching

Match each term on the left with the best definition on the right.

1. ALIEN	**a.** __ hateful attitude without factual basis
2. AMENDMENT	**b.** __ fairness
3. CHILDREN	**c.** __ person owing allegiance to a country
4. CITIZEN	**d.** __ breaking of the law
5. CONSTITUTION	**e.** __ basic document of government
6. DEPORT	**f.** __ person who is not a citizen
7. EDUCATION	**g.** __ process of learning
8. IMMIGRANT	**h.** __ young people
9. JUSTICE	**i.** __ person coming to a new country
10. PREJUDICE	**j.** __ change to the Constitution
11. VIOLATION	**k.** __ to make a person leave a country

Word Search

Find the terms from the left-hand column above in the word search puzzle.
Words may be spelled up, down, forward, or backward.

R	W	O	N	T	F	Z	C	E	E	I	L	B	N	N
P	G	G	E	N	N	T	Z	W	C	N	C	U	O	O
Q	W	W	O	E	E	H	G	X	I	Q	E	I	I	I
O	Z	S	V	M	R	V	L	U	D	K	E	T	T	T
G	O	K	I	D	D	R	B	F	U	K	G	X	A	U
E	Q	B	O	N	L	N	P	H	J	V	U	W	R	T
C	Y	O	L	E	I	E	A	H	E	O	F	T	G	I
G	C	M	A	M	H	S	L	D	R	P	E	U	I	T
N	O	I	T	A	C	U	D	E	P	O	R	T	M	S
Y	C	Z	I	L	I	V	O	C	Q	Y	Y	H	M	N
K	K	I	O	I	T	G	N	I	F	P	E	X	I	O
D	M	A	N	E	I	G	R	T	X	B	T	K	T	C
D	X	U	Z	N	Z	X	W	S	J	Z	Q	H	P	V
L	J	W	U	B	E	T	I	U	I	Y	U	R	H	I
S	T	R	O	B	N	I	D	J	R	F	E	Y	O	K

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Equal Protection Under Law:
Access to Public Education

Level C (Grades 9-12)

This level contains the following materials:

Lawyer's Pages

- ❑ **Lesson Plan** (page C-21)
- ❑ **Background on the Law** (page C-22)
- ❑ **Right to a Free Public Education?** (page C-23)
- ❑ **Opinion A** (page C-24)
- ❑ **Opinion B** (page C-25)

Teacher's Pages

Make one copy of each page marked with the teacher's icon and send to the teacher in a Teacher's Packet one week before the class session.

- ❑ **Background on the Law** (page C-22)
- ❑ **Right to a Free Public Education?** (page C-23)
- ❑ **Opinion A** (page C-24)
- ❑ **Opinion B** (page C-25)
- ❑ **Activity Guide** (pages C-26–30)
  Overview of the Lesson
  Pre-Visit Exploratory Activity (Chronology: Coming to America)
  Activity Sheet/Answer Key
  Extension Activities (Appellate Opinion, Student Forum)

Student Pages

Make copies of the pages marked with the student icon for each student in class and distribute as part of a Student Packet.

- ❑ **Right to a Free Public Education?** (page C-23)
- ❑ **Opinion A** (page C-24)
- ❑ **Opinion B** (page C-25)
- ❑ **Activity Sheet** (page C-31)

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Lesson Plan

Objectives

During your session, students will—

- ✓ analyze a case study on the rights of children of undocumented aliens
- ✓ identify the equal protection clause of the Fourteenth Amendment

Note: Before your session, the students should examine some history of immigration to the United States and have a working knowledge of the different individual statuses—citizen, resident alien, nonresident or nonimmigrant alien, and undocumented alien. To this end, photocopy and send the Teacher's Packet to the classroom teacher at least one week before your session is scheduled.

Vocabulary

As these terms come up in discussion, list them on the board and elicit definitions from the students. These terms appear on the Activity Sheet in the Student Packet, which students may complete after your visit.

alien	equal protection
asylum	nonimmigrant alien
citizen	nonresident alien
refugee	resident alien
immigration	undocumented alien

Procedure

1. Begin the session by telling the students that, if they are like the majority of Americans, they are descended from aliens. Remind them that at some point in the past, most students' ancestors came from other countries to the United States and were therefore aliens. If there is a globe or world map in the classroom, point to your family's country or countries of origin. Ask if one or two volunteers will point out the countries from which their ancestors came.

2. Tell students they are going to study a U.S. Supreme Court case that was decided in 1982. The case is about education for the children of undocumented, or "illegal," aliens. Ask whether anyone has heard about this issue in the news, and inform the class that the U.S. Supreme Court may very well reconsider this issue because of an initiative passed in California.

3. Review with students that undocumented aliens are persons who have entered the country without "checking in" at the border or who have remained longer than their visas allowed. Undocumented aliens are subject to deportation unless they can prove that they would be subject to persecution if returned to their own country.

4. Distribute the Student Packets and direct students to the handout "Right to a Free Public Education?" Ask a volunteer to read it aloud. Check for understanding by asking the following questions:

Why was the law passed?
Who may attend the free public schools?
Who may not attend school?

5. Direct students to the handouts "Opinion A" and "Opinion B" and have volunteers read them aloud.

6. Ask students: What is the issue in this case? Put another way, what must the Court decide? (The issue is whether the Texas law excluding children of undocumented aliens from free public schools is constitutional or whether it violates the equal protection clause of the Fourteenth Amendment.)

7. Depending on the level of the class and available time, you may wish to discuss the history of major U.S. Supreme Court cases addressing the issue of discrimination against aliens, which follows this Lesson Plan.

8. Have students decide whether they agree with Opinion A or Opinion B as well as why they agree. Tell students that they should not try to guess what the U.S. Supreme Court did with this case, but instead to select the opinion with which they personally agree.

9. Poll students as to which court opinion they agree with by getting a show of hands.

10. Divide the class into groups of no more than five. Depending upon the spread of opinions and the class size, construct the groups with persons of like opinions or with persons of varied opinions. Each group should assign a recorder to write down the group's ideas and a spokesperson to report the arguments to the larger group.

11. Ask students to work within their group to identify each argument in their opinion and to rank the arguments from most important to least important. Tell students that they are free to add arguments that support their case even if those arguments are not contained in the opinion. Even if some students in the group do not agree with the opinion, ask them to think like lawyers and to help defend the opinion.

12. Clarify with students that they understand their group task. Tell students that they have seven minutes to list their arguments. While students are working in groups, circulate and observe all groups to determine that they are on task. Don't take over any group, but do give any needed instruction or prompt discussion with questions.

13. Depending upon the time, have students identify and rank the arguments from most important to least important in the opinion with which they do not agree.

14. Begin discussion of the case by asking one spokesperson from one group that is supporting Opinion A to give its highest ranked argument. Next ask a spokesperson supporting Opinion B to respond to the argument given for Opinion A. As the arguments are being elicited, write them on the board under the appropriate heading Opinion A or Opinion B.

15. Continue the discussion, ensuring that students from each group have a chance to contribute. As the discussion progresses, invite individuals who are designated spokespersons to provide additional input.

16. When the arguments have been exhausted, congratulate students on their creativity and analysis and respond to the arguments that they made.

17. Ask students to identify which opinion was that of the U.S. Supreme Court. Tell students that the Supreme Court decided this case in 1982 and held that the Texas law was unconstitutional. The majority opinion is reflected in Opinion B. The Court expressed that it was especially concerned that these children would be forever "second-class citizens" without an education. The vote was 5–4.

Note: The California initiative passed in 1994 and discussed in the Student Forum extension activity in the Teacher's Packet is in direct contradiction to this decision of the Supreme Court. Backers of the initiative are betting that the Court would rule differently today. While the Court traditionally follows its own precedent, the members of the Court have changed since 1982. The argument could be made that circumstances have also changed, in that economic and immigration conditions are different today.

18. Allow time for a question-and-answer wrap-up.

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HISTORY OF MAJOR U.S. SUPREME COURT CASES ADDRESSING DISCRIMINATION AGAINST ALIENS

You're not expected to present this information to the students, but it could help you answer some questions they might have, such as, "Do people who are not citizens have rights under the Constitution?"

The U.S. Supreme Court first held that aliens, or noncitizens, were entitled to equal protection under the Fourteenth Amendment in 1885. In *Wick Yo* v. *Hopkins*, 118 U.S. 356 (1885), a San Francisco laundry licensing ordinance was used to discriminate by denying licenses to Chinese who owned laundries, while granting licenses to white laundry owners. The Supreme Court held that the law was being applied in a way that discriminated against the Chinese, and thus violated the equal protection clause of the Fourteenth Amendment.

Still, laws continued to be passed by the states that discriminated against aliens, particularly in the area of employment, and many of these laws were upheld by the courts, under the rationale that a state has the authority to limit the use of its public resources and funds to its citizens. Examples of some of the laws upheld are an Ohio law prohibiting aliens from operating pool halls, a Pennsylvania law prohibiting aliens from being licensed as public accountants, a New York law denying aliens the right to be awarded public works contracts, and a Maryland law prohibiting aliens from selling liquor. Aliens have also been denied the right to cut hair, sell soft drinks, handle animals or corpses, or peddle goods—because of "a tendency to cheat customers."

Finally, in the 1940s, the U.S. Supreme Court began to strike down some of these laws, beginning with a California law that prohibited aliens from obtaining a fishing license. It was not until 1971, however, that the Supreme Court severely limited the right of states to treat aliens differently than citizens.

In *Graham* v. *Richardson*, 403 U.S. 369 (1971), the U.S. Supreme Court held that aliens could not be denied welfare benefits simply on the basis that they were aliens. In *Graham*, for the first time, the Court classified aliens as a "suspect class." This classification means that laws discriminating against aliens must be examined under the "strict scrutiny" test, which is the strictest test that can be applied under the Fourteenth Amendment equal protection analysis. Under the strict scrutiny test, a law discriminating against aliens is unconstitutional *unless* the state can show that it serves a compelling, or very important, purpose or need. It must also show that this governmental action is the least restrictive means to achieving its purpose and is narrowly tailored to advance this compelling interest.

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Since *Graham*, the U.S. Supreme Court has struck down a Connecticut law requiring that an applicant for the Bar (to practice law in a state) had to be a U.S. citizen [*In re Griffiths*, 413 U.S. 717 (1973)], and a New York law limiting eligibility for college tuition assistance to citizens [*Nyquist* v. *Maucles*, 432 U.S. 1 (1977)]. The Court has, however, defined an exception to the strict scrutiny test when the law excludes aliens from a political job (the "political function" exception). In other words, the Court has made an exception that allows aliens to be discriminated against in certain types of occupations. Under this exception, the Court has upheld laws prohibiting aliens from serving as police or "peace" officers, as well as a New York law that excluded aliens who did not intend to become citizens from being certified as public school teachers [*Amback* v. *Norwick*, 441 U.S. 68 (1979)].

IMMIGRATION LAW

The Immigration and Nationality Act provides number limits on most immigration to the United States. Among immigrants not subject to limits are the immediate relatives of U.S. citizens and refugees.

The Act of 1965 established controls to protect U.S. workers from foreign labor. To obtain a work visa, an alien must obtain certification that there are not enough U.S. workers at his or her destination who are able and willing to perform the job and that the alien's employment will not adversely affect the working conditions and wages of U.S. workers in the same job.

The Immigration and Control Act of 1986 offered amnesty and eventual citizenship to those aliens living in the United States illegally since before January 1, 1982. The Immigration and Naturalization Service reported that, as of May 4, 1988, the official deadline, more than half of all amnesty applicants were in California and that 71 percent nationwide had immigrated from Mexico. More than three million aliens eventually sought amnesty. The Act also required employers to ask for identification verifying U.S. citizenship of job applicants and, for the first time, imposed civil and criminal penalties on employers who knowingly hire aliens unauthorized to work in the United States.

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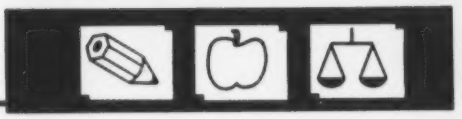
Right to a Free Public Education?



***Plyler* v. *Doe*, 457 U.S. 202 (1982)**

The Law and History of the Case

Concerned that high numbers of children of undocumented aliens were attending the state's schools, the Texas legislature passed the following law:

> Tex. Educ. Code Section 21.031. Only children who are citizens of the United States or legally admitted aliens and who are over the age of five years and under the age of 21 years on the first day of September of any scholastic year shall be permitted to attend the public free schools of the district in which he or she resides.

A lawsuit was filed on behalf of the illegal alien children. The lawsuit claimed that the law was unconstitutional because it violates the Fourteenth Amendment of the U.S. Constitution.

The relevant part of the Fourteenth Amendment provides:

> No state shall ... deny to any person within its jurisdiction the equal protection of the laws.

Facts

- The increase in population caused by illegal immigrants from Mexico has created problems for the school district, partly because of the special educational needs of those students, such as English as a Second Language classes.
- The school district is financially strained by the large number of children of illegal immigrants.
- The school law has the greatest impact on a small group of alien families who have immigrated to the United States permanently, although illegally.
- Many undocumented alien children continue to live in the United States for years, and some become citizens through marriage to citizens.
- Without an education, the children—who are already disadvantaged because of poverty, lack of English-speaking ability, and prejudice—are likely to become permanently part of the lowest social and economic class.
- A large number of illegal aliens live in Texas. Their presence is largely tolerated, and their employment is even welcomed. However, they are often subject to abuse or exploitation.
- Evidence at the time of trial shows that illegal aliens underuse public services and contribute their labor and tax money to the local economy.

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The law that excludes undocumented alien children from attending the free public schools of this district is constitutional. The law does not prevent the children from attending school, only from attending school for free.

A state should not have to pay to educate children present illegally in the state because the federal government does not properly enforce our immigration laws. States have no power to enforce immigration laws and control the borders, nor to deport aliens. Those powers belong to the federal government only. If Congress will not pass laws or allocate funds to properly patrol our borders, states should have the right to protect their budgets by passing laws like this one, to keep illegal immigrant children from attending our schools for free.

Persons who have entered this country illegally are not entitled to other benefits the state offers, such as welfare and food stamps. The right to an education is not a fundamental right. Since the aliens have no right to be here in the first place, the state and school district do not have to provide a free education for these children.

Providing a free education to children of undocumented aliens will only encourage more illegal immigration. This will burden the economy of the state. The school district must act to protect its financial security in the face of an increasing tide of illegal immigrants.

The undocumented alien children put a great burden on the school system because of their special needs.

Since many of these children will not remain in the United States, they will not have the chance to put their education to productive use here.

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Opinion B

The Texas law excluding undocumented alien children from receiving a free public education is unconstitutional. The law violates the Fourteenth Amendment of the U.S. Constitution because it unfairly discriminates against undocumented school-age children.

Public education is key to maintaining our basic institutions and democratic system of government. Education also provides the basic tools to make a productive living in our society. The inability to read and write will handicap a child every day of his or her life. No child can be expected to succeed in life without a basic education. Therefore, education must be provided on equal terms.

The children of illegal aliens are not responsible for their presence here. It is unfair to use a parent's misconduct in coming here illegally to deprive the child of an education. No child is responsible for its birth. To punish a child for a status that he or she has no control over is unjust. Nor is it going to keep the parent from illegally entering this country.

Most undocumented aliens enter this country to look for work, not to get a free education for their children. This law will have no impact on the amount of illegal immigration. It will only punish innocent children.

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OVERVIEW OF THE LESSON

Objectives

During the lawyer's class session, students will—

- ✓ analyze a case study on the rights of children of undocumented aliens
- ✓ identify the equal protection clause of the Fourteenth Amendment

Lesson Summary

The class session conducted by the lawyer focuses on a case study of a 1982 U.S. Supreme Court case. The Court ruled in a 5 to 4 decision that children of undocumented, or "illegal," aliens have a constitutional right to a free public education under the equal protection clause of the Fourteenth Amendment. Students will analyze the case by studying opposing opinions.

You can best prepare your students for the lawyer's class session by defining immigration terms and by exploring with students past and present attitudes and policies regarding immigrants and immigration. A timeline activity can help students gain a historical perspective on immigration. The Pre-Visit Exploratory Activity outlined below will help you accomplish this.

Following the lawyer's class session, you might have students write and turn in appellate opinions on the 1982 case. An appellate opinion is one written by a higher (appeals) court. In this instance, students' appellate opinions will reflect their personal views of the case.

Additionally, consider holding a Student Forum on California's initiative to deny free public education to children of undocumented immigrants.

These extension activities are explained more fully below.

PRE-VISIT EXPLORATORY ACTIVITY

Prior to the lawyer's visit—

1. Ask students what we mean by "immigration." (Immigration is the act of coming to a country of which one is not a native, with the intent of settling there.) Draw from students their prior knowledge and experiences with immigration. Ask whether any students immigrated themselves. Inquire about attitudes students have noticed about immigration by asking questions such as: "How do Americans feel about immigration and immigrants—both past and present?"

2. As a class, brainstorm reasons people immigrate (economic opportunity, reunion with family members, religious freedom, refuge from persecution, and so on).

3. Discuss how the motivation for coming to this country affects the experience. Point out that those who come for economic opportunity or to join family members (sometimes called "voluntary" immigrants) will often have an easier time assimilating than those who come as refugees, to escape persecution in their home country ("involuntary" immigrants).

4. Ask what governmental body is in charge of immigration. (The federal government handles all immigration matters. The Immigration and Naturalization Service [INS], an agency within the executive branch, is the agency most involved in immigration.)

5. Define some vocabulary words involving immigration and the law. (*Alien* is the term used to describe a person who is in the United States but is not a citizen of the country. Immigrants who have not attained citizenship status are called aliens.) Ask students for connotations associated with the word *alien* (from outer space, dangerous). Discuss whether these connotations are reflected in our treatment of aliens.

Immigration laws create two types of aliens:

- "Nonimmigrant" or "nonresident" status is assigned to those persons admitted to the United States for a limited time, such as tourists, students, diplomats, and crews of foreign ships.

- "Immigrant" or "resident alien" status is assigned to those persons desiring permanent residence in this country. Resident alien status is more difficult to obtain. Resident aliens are assigned an immigrant visa, called a "green card," and may live anywhere in the United States. They are protected by all constitutional provisions that apply to "persons" as opposed to "citizens." (For example, the Fourteenth Amendment applies to "all persons," but the Fifteenth and Twenty-fourth Amendments refer to "citizens" when referring to the right to vote.) They may participate in any legal activities within the United States and may apply for citizenship after five years of residence in the country, or three years if they are married to a U.S. citizen.

Those coming here because of political oppression are called "refugees." A refugee is a special category of involuntary immigrant—someone who is subject to persecution in their homeland. "Persecution" refers to oppression, threats, or mistreatment because of someone's race, religion, or beliefs. Refugees are entitled to special protections, called asylum, both under international and under U.S. law.

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6. Make copies of the handout "Chronology: Coming to America" on page C-28 and distribute. Ask students to work in pairs to develop a time-line of immigration history and policy in California. Give them at least half a class period to work on this.

7. Ask the students to identify patterns and inconsistencies they notice in immigration policy as they prepare their time-lines. (Most students will notice that people of color have been subject to more restrictive immigration policies. They may also notice that while one group of immigrants is being restricted in some way, another group will be welcomed. Finally, students may notice that overall economic conditions play an important part in how immigration policy is stated.) As a class, explore these and other patterns or inconsistencies identified by the students.

ACTIVITY SHEET/ANSWER KEY

In the Student Packet is a word search that asks students to find relevant vocabulary words or phrases and then to use them in a paragraph. Students may use the activities to strengthen vocabulary after the lawyer's visit.

Word Search
[(X (Col), Y (Row) Direction - Word]:

(01,02) E - EQUAL PROTECTION
(01,03) SE - IMMIGRATION
(01,16) E - NONIMMIGRANT ALIEN
(01,16) N - NONRESIDENT ALIEN
(11,09) E - ALIEN
(13,04) SW - RESIDENT ALIEN
(13,04) W - REFUGEE
(15,13) S - CITIZEN
(19,05) W - ASYLUM
(19,17) N - UNDOCUMENTED ALIEN

EXTENSION ACTIVITIES

Appellate Opinion: Ask each student to write an appellate opinion based on how he or she would personally decide the case. Tell students to support their decisions with both legal arguments and facts (those listed on the "Right to a Free Public Education?" handout as well as others they may research in newspapers and magazines). Ask them to discuss any policy implications of their decisions.

Student Forum: Allow students to organize and present a forum. Make copies of the directions on pages C-29–30 and give one to each student. Organization and presentation will take from two to five days depending on the number of characters, outside community members invited, and the amount of discussion.

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Coming to America (From the *Los Angeles Times*, November 14, 1993)

California and the United States have a long and sometimes conflicted history of immigration policies.

1840s: Large-scale immigration to the U.S. begins, spurred by revolutions and upheavals in Europe, such as the potato famine in Ireland. Immigration is unrestricted.

1850: Soon after California statehood, Chinese begin arriving, drawn by the demand for cheap labor by the railroads and mines. California levies a tax on foreign miners.

1854: Chinese are prohibited from testifying in court against whites.

1855: State legislature imposes a $50 "head tax" per Chinese immigrant. San Francisco passes "pigtail ordinance" requiring Chinese lawbreakers to cut their hair within one inch of the scalp.

1871: A Los Angeles mob, which includes prominent citizens, tortures and hangs seventeen Chinese men.

1879: New state constitution bars corporations from hiring Chinese and prohibits the employment of Chinese in any public works "except for punishment for crime."

1882: Congress enacts Chinese Exclusion Act prohibiting Chinese laborers from entering the country. The law also prohibits Chinese immigrants from becoming U.S. citizens. It is repealed in 1943.

1892: The Office of Immigration opens an inspection station at Ellis Island in New York Harbor.

1900s: In a great wave of immigration, the U.S. receives 8.8 million immigrants, including large numbers from Italy, Russia, and Austria-Hungary.

Japanese begin arriving, recruited by the agricultural industry to make up for the loss of Chinese labor.

1906: California bars marriage between whites and "Mongolians." San Francisco school board sets off an international incident by segregating Japanese schoolchildren. Outcome is the 1907 Gentlemen's Agreement barring Japanese laborers.

1913: President Woodrow Wilson dispatches Secretary of State William Jennings Bryan to persuade California legislature not to pass anti-immigrant legislation.

Noncitizen Japanese are barred from owning property or leasing farmland.

Mexican immigrants begin pouring into the state to meet demand for labor.

1921: Quota Act limits immigrants of given nationality to 3% of their numbers already in the United States. The law does not restrict immigration from the Western Hemisphere.

1924: Japanese immigration is effectively cut off. Quota is lowered to 2% of residents of each nationality. Border Patrol is created.

1929: Race riots flare in Northern California against Filipino laborers.

1930: In height of Depression, deportation of Mexican laborers is widespread. Approximately half a million Mexicans exit—many of them U.S.-born children.

1942: California agricultural industry persuades Congress to establish the "bracero" program, bringing in Mexican workers to offset labor shortages.

1954: Launching "Operation Wetback," INS agents arrest Latinos at their workplaces. More than one million Mexican immigrants, together with some U.S. citizens, are deported.

1964: Bracero program is terminated.

1965: Congress repeals national origins quota system. Preferences established for close relatives and refugees and certain job classifications.

1970s: After the end of the Vietnam War, refugees from Vietnam, Cambodia, and Laos begin arriving in the United States, particularly in California.

1980s: Los Angeles becomes "new Ellis Island" with waves of Central Americans, Iranians, Armenians, and others from around the world fleeing revolution, violence, and poverty.

1980: Congress approves Refugee Act to permit immigration by persons who fear "persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

1986: President Ronald Reagan signs Immigration Reform and Control Act, granting amnesty to three million illegal immigrants in U.S. since 1982. The law also establishes sanctions against employers who hire illegal immigrants.

1990: National quota for legal immigrants is raised to roughly 700,000 per year.

1993: President Clinton urges tightening of asylum provisions. California Governor Pete Wilson proposes measures to curb illegal immigration, including denying citizenship to children of illegal immigrants.

1994 California's Initiative to "Save Our State," banning free public education to illegal aliens, is passed by voters.

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Student Forum

This Student Forum is an opportunity to learn about the issue of the right of the children of illegal aliens to a free public education and other services provided by tax dollars.

Assume that the following initiative is on the ballot.

> *Save Our State. Illegal aliens are not eligible to receive government-supported nonemergency medical care or free public education in this state. Teachers and medical care workers must report any "apparent illegal immigrants" they deal with.*

You will first complete a ballot to determine initial attitudes toward free public education and services. Next, you'll explore different viewpoints by conducting a Student Forum, similar to a town hall meeting. Then you'll complete a second ballot.

Through this simulation, you will model a type of discourse that people in a healthy democratic society need to conduct.

Including Community Resource Persons
You might invite community members to testify at your forum, including a spokesperson for a neighborhood group that offers services to recent immigrants, a school board member, and an official of the Immigration and Naturalization Service.

What People Are Needed for the Forum?
Characters
Panel
Clerk
Facilitator
Audience

What Do the Characters Do?
Characters have five minutes to testify about their experience, viewpoint, and recommendation. They are questioned by the audience and should answer consistently within their roles.

All students participate in developing characters. First the class brainstorms to produce a variety of viewpoints about free public education and medical services for the children of illegal aliens—both pro and con. If research is needed, selected students may contact representatives from agencies such as the school board, the county board, the public hospital board, the INS, and a local immigrants' aid society. Then the class breaks up into small groups of up to five students; each group signs up for one or two of these viewpoints. There should be an even number of pro and con viewpoints.

Next, each group writes a character role. Two sample character roles are given below. Expand on these and develop new characters as well. Each character role must include a name, a specific viewpoint on the issue, background on the character consistent with that viewpoint, and a request for a specific policy position (for example, the government should provide free public education for the children of illegal aliens, or should not). Each small group then chooses a member to play that character.

Sample characters:
Robert Sampson, Save Our State Coordinator: "I don't have anything personal against immigrants. It's just that this state is going bankrupt. We can't take in all of the illegals in the world. How many can we educate, medicate, and support? Just because they are here does not mean they have a right to stay here and a right to our tax dollars. And many of those who work and earn money here just send it out of the country to their families back home. The proposed law allows for emergency care, so if someone has an emergency, they can still get medical attention. We all carry some form of identification anyway, so having to show an ID to get medical care and other tax-supported services is no big change."

Rosa Vargas, Mexican American Legal Defense Fund: "People do not come to this country for free medical care. They come for jobs, and they contribute a great deal to the economy. If we pass this law, people will live in the shadows of society, afraid to seek necessary medical care. Disease and even epidemics could result, affecting everyone. Also, if doctors and teachers are asked to report illegal aliens, it will result in racial discrimination. Anyone who looks like a Hispanic will be targeted and asked to prove they are a citizen. Soon we'll all be asked to carry ID cards."

What Does the Panel Do?
The panel, consisting of up to five students, organizes the forum. It tallies and submits the results of the pre-forum and post-forum ballots. It invites community members upon recommendations of the class. It reviews character roles, making sure that a wide range of views is presented. It selects students to be clerk and facilitator, and submits the roster of characters and community members to the clerk.

What Does the Clerk Do?
The clerk receives the list of characters from the panel, along with the names of any community members. The clerk then creates an agenda, perhaps all in favor followed by all opposed.

What Does the Facilitator Do?
The facilitator opens the forum with a statement of why the group is meeting: to explore the issue of offering free public education to the children of illegal aliens. The facilitator then calls on characters to speak according to the agenda prepared by the clerk, timing each five-minute presentation. He or she also encourages questions from the audience and discussion. Finally, the facilitator closes the forum.

What Does the Audience Do?
The audience is made up of students who are not playing the clerk, facilitator, or characters. Audience members participate by listening to testimony, asking questions, and discussing the issues raised.

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Forum Ballot

What do you think about state and local government's responsibility to provide free public education, as well as other services, to the children of immigrants who are in the United States illegally?

The student panel will collect this ballot prior to the forum. After the forum, you will be asked to complete this same ballot again, revealing how your opinions have been influenced by the forum.

	Yes	No	Not Sure
1. Do you think immigration has been a good thing for the United States in the past?			
2. Do you think immigration is a good thing for our country today?			
3. Do you think immigrants are taking jobs away from Americans?			
4. Should the United States be more lenient toward those people coming here because of political oppression than toward those coming for economic opportunity?			
5. Do you think only English should be used in public schools, government offices, government documents, and public signs?			
6. Do you think children born in the United States to undocumented (illegal) aliens should automatically be U.S. citizens, as the Constitution now allows for?			
7. In order to detect undocumented aliens, do you think everyone in the United States be required to carry a national ID card?			
8. Do you think the children of illegal aliens have the right to free public education?			
9. Do you think illegal aliens have the right to tax-supported nonemergency medical service?			

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Activity Sheet

Word Search

Find the following terms in the word search puzzle. Words may be spelled up, down, forward, or backward. Then write a paragraph using the words.

ALIEN
ASYLUM
CITIZEN
EQUAL PROTECTION
IMMIGRATION
NONIMMIGRANT ALIEN
NONRESIDENT ALIEN
REFUGEE
RESIDENT ALIEN
UNDOCUMENTED ALIEN

N	I	Z	B	K	J	X	U	D	I	N	C	P	K	D	Z	Q	T	N	H
E	Q	U	A	L	P	R	O	T	E	C	T	I	O	N	J	A	Z	E	G
I	Z	K	C	M	E	K	X	K	F	P	V	X	S	R	C	V	Y	I	K
L	M	R	M	J	C	E	E	G	U	F	E	R	X	K	I	U	O	L	M
A	F	M	G	Z	Z	T	N	Y	R	L	E	Q	M	U	L	Y	S	A	P
T	U	Y	I	R	X	E	A	M	A	S	N	M	H	P	G	F	T	D	R
N	Z	C	J	G	L	S	L	S	I	S	O	C	G	E	Q	N	S	E	O
E	V	E	K	A	R	Q	S	D	S	V	M	A	K	A	C	R	J	T	Y
D	E	C	T	U	T	A	E	J	R	A	L	I	E	N	P	I	N	N	E
I	R	E	L	D	U	N	T	Q	L	G	L	L	F	K	J	Z	H	E	E
S	Q	U	O	H	T	Z	E	I	I	D	S	C	X	I	R	X	C	M	T
E	R	M	S	A	W	N	A	R	O	T	D	V	T	U	Y	Z	Z	U	X
R	E	Q	L	E	L	C	V	N	T	N	K	N	C	C	Y	N	D	C	Z
N	C	I	P	C	Z	P	E	V	D	O	C	C	B	I	E	F	Y	O	O
O	E	I	X	K	V	M	G	R	K	Z	V	A	O	T	J	P	L	D	Y
N	O	N	I	M	M	I	G	R	A	N	T	A	L	I	E	N	S	N	U
K	K	D	X	J	B	O	H	Y	Z	E	F	E	M	Z	C	T	C	U	A
Z	D	W	Y	W	G	T	W	C	F	C	Z	F	G	E	R	T	P	K	S
Y	H	F	S	H	T	T	B	R	L	H	M	B	Z	N	S	F	I	T	T
G	R	L	X	A	E	C	A	J	D	N	Y	B	V	C	R	V	N	Z	B

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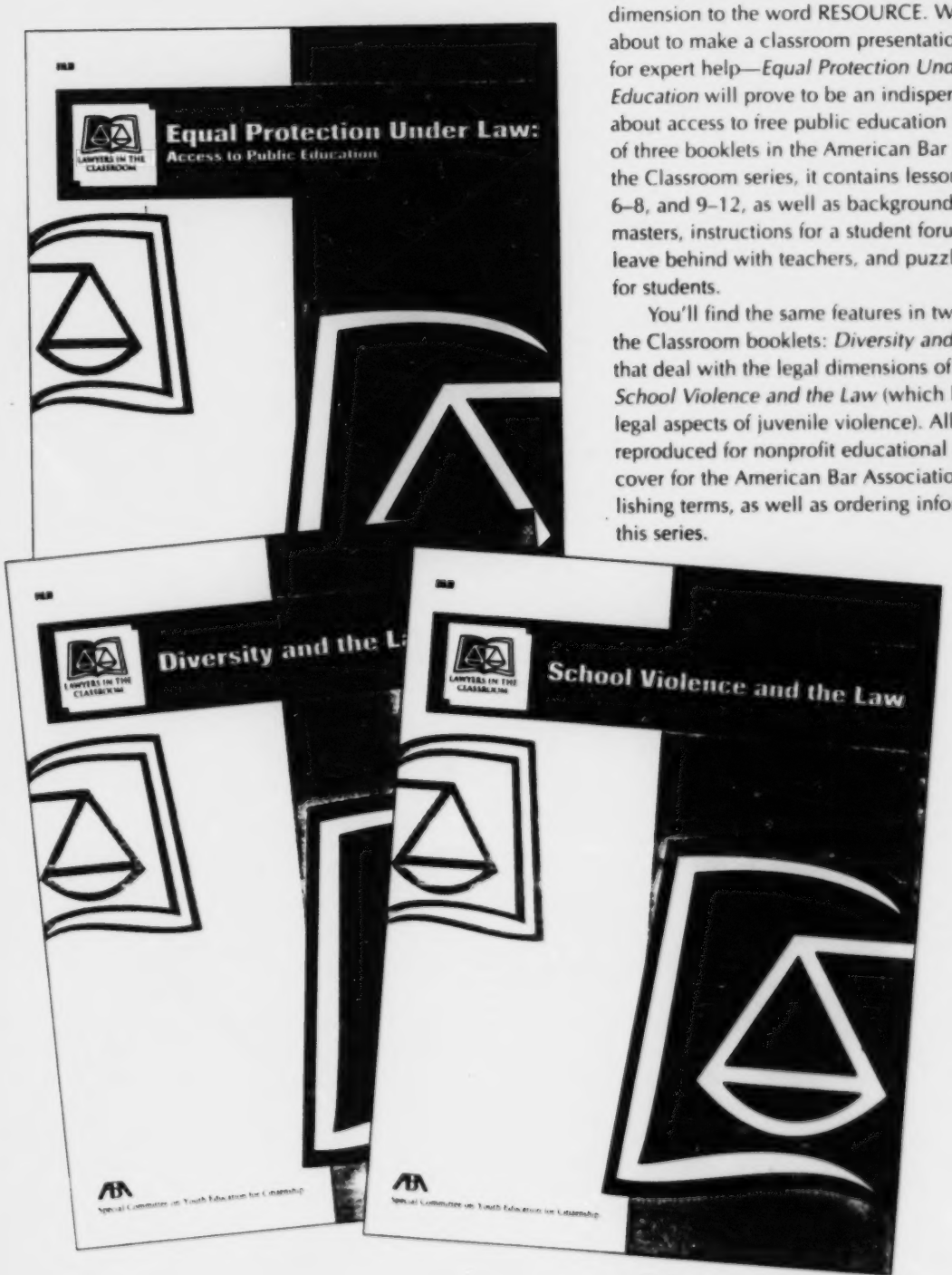
Equal Protection Under Law:

Access to Public Education


Equal Protection Under Law:
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